

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

THE WAVE STUDIO, LLC,

Plaintiff,

Case No. 13-cv-09239-CS

v.

GENERAL HOTEL MANAGEMENT LTD.
et al.,

ECF CASE

Defendants.

**ANSWER AND AFFIRMATIVE DEFENSES
OF GENERAL HOTEL MANAGEMENT LTD.**

Defendant, General Hotel Management Ltd. (“GHM”) pleads as follows in response to the First Amended Complaint [DE 7] (“Complaint”):

1. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 1 of the Complaint and therefore denies them.

2. Admitted that this purports to be an action for copyright infringement. The remaining allegations contained in paragraph 2 of the Complaint are denied.

3. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 3 of the Complaint and therefore denies them. Denied that such terms applied to GHM.

4. The allegations contained in paragraph 4 of the Complaint are denied.

5. Admitted that this purports to be an action under the Copyright Laws of the United States. The remaining allegations contained in paragraph 5 of the Complaint are denied.

6. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 6 of the Complaint and therefore denies them.

7. The allegations contained in paragraph 7 of the Complaint are denied.

8. The allegations contained in paragraph 8 of the Complaint are denied.

9. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 9 of the Complaint and therefore denies them.

10. Admitted that GHM and/or its affiliates are hotel management companies. The remaining allegations contained in paragraph 10 are denied.

11. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 11 of the Complaint and therefore denies them.

12. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 12 of the Complaint and therefore denies them.

13. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 13 of the Complaint and therefore denies them.

14. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 14 of the Complaint and therefore denies them.

15. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 15 of the Complaint and therefore denies them.

16. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 16 of the Complaint and therefore denies them.

17. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 17 of the Complaint and therefore denies them.

18. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 18 of the Complaint and therefore denies them.

19. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 19 of the Complaint and therefore denies them.

20. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 20 of the Complaint and therefore denies them.

21. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 21 of the Complaint and therefore denies them.

22. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 22 of the Complaint and therefore denies them.

23. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 23 of the Complaint and therefore denies them.

24. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 24 of the Complaint and therefore denies them.

25. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 25 of the Complaint and therefore denies them.

26. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 26 of the Complaint and therefore denies them.

27. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 27 of the Complaint and therefore denies them.

28. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 28 of the Complaint and therefore denies them.

29. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 29 of the Complaint and therefore denies them.

30. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 30 of the Complaint and therefore denies them.

31. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 31 of the Complaint and therefore denies them.

32. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 32 of the Complaint and therefore denies them.

33. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 33 of the Complaint and therefore denies them.

34. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 34 of the Complaint and therefore denies them.

35. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 35 of the Complaint and therefore denies them.

36. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 36 of the Complaint and therefore denies them.

37. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 37 of the Complaint and therefore denies them.

38. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 38 of the Complaint and therefore denies them.

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41. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 41 of the Complaint and therefore denies them.

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45. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 45 of the Complaint and therefore denies them.

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51. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 51 of the Complaint and therefore denies them.

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60. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 60 of the Complaint and therefore denies them.

61. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 61 of the Complaint and therefore denies them.

62. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 62 of the Complaint and therefore denies them.

63. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 63 of the Complaint and therefore denies them.

64. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 64 of the Complaint and therefore denies them.

65. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 65 of the Complaint and therefore denies them.

66. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 66 of the Complaint and therefore denies them.

67. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 67 of the Complaint and therefore denies them.

68. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 68 of the Complaint and therefore denies them.

69. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 69 of the Complaint and therefore denies them. GHM denies that it supplied any photographs without Plaintiff's knowledge or authorization.

70. The allegations contained in paragraph 70 of the Complaint are denied.

71. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 71 of the Complaint and therefore denies them. Denied that such terms applied to GHM.

72. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 72 of the Complaint and therefore denies them. Denied that such terms applied to GHM.

73. Admitted that Ms. Lee was commissioned to photograph certain hotels managed by GHM's affiliates and that she was paid for her services. The remaining allegations contained in paragraph 73 of the Complaint are denied.

74. Admitted that the parties executed a Settlement Agreement in April 2011 releasing GHM from any and all claims. The remaining allegations contained in paragraph 74 of the Complaint are denied.

75. The allegations contained in paragraph 75 of the Complaint are denied.

76. The allegations contained in paragraph 76 of the Complaint are denied.

77. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 77 of the Complaint and therefore denies them.

78. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 78 of the Complaint and therefore denies them.

79. The allegations contained in paragraph 79 of the Complaint are denied.

80. The allegations contained in paragraph 80 of the Complaint are denied.

81. The allegations contained in paragraph 81 of the Complaint are denied.

82. The allegations contained in paragraph 82 of the Complaint are denied.

83. The allegations contained in paragraph 83 of the Complaint are denied.

84. The allegations contained in paragraph 84 of the Complaint are denied.

85. The allegations contained in paragraph 85 of the Complaint are denied.

86. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 86 of the Complaint and therefore denies them.

87. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 87 of the Complaint and therefore denies them.

88. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 88 of the Complaint and therefore denies them.

89. The allegations contained in paragraph 89 of the Complaint are denied.

90. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 90 of the Complaint and therefore denies them.

91. The allegations contained in paragraph 91 of the Complaint are denied.

92. The allegations contained in paragraph 92 of the Complaint are denied.

93. The allegations contained in paragraph 93 of the Complaint are denied.

94. The allegations contained in paragraph 89 of the Complaint are denied.

95. GHM re-alleges its responses above as if fully set forth herein.

96. The allegations contained in paragraph 96 of the Complaint are denied.

97. The allegations contained in paragraph 97 of the Complaint are denied.

98. The allegations contained in paragraph 98 of the Complaint are denied.

99. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 99 of the Complaint and therefore denies them.

100. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 100 of the Complaint and therefore denies them.

101. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 101 of the Complaint and therefore denies them.

102. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 102 of the Complaint and therefore denies them.

103. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 103 of the Complaint and therefore denies them.

104. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 104 of the Complaint and therefore denies them.

105. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 105 of the Complaint and therefore denies them.

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107. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 107 of the Complaint and therefore denies them.

108. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 108 of the Complaint and therefore denies them.

109. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 109 of the Complaint and therefore denies them.

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111. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 111 of the Complaint and therefore denies them.

112. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 112 of the Complaint and therefore denies them.

113. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 113 of the Complaint and therefore denies them.

114. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 114 of the Complaint and therefore denies them.

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116. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 116 of the Complaint and therefore denies them.

117. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 117 of the Complaint and therefore denies them.

118. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 118 of the Complaint and therefore denies them.

119. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 119 of the Complaint and therefore denies them.

120. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 120 of the Complaint and therefore denies them.

121. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 121 of the Complaint and therefore denies them.

122. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 122 of the Complaint and therefore denies them.

123. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 123 of the Complaint and therefore denies them.

124. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 124 of the Complaint and therefore denies them.

125. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 125 of the Complaint and therefore denies them.

126. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 126 of the Complaint and therefore denies them.

127. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 127 of the Complaint and therefore denies them.

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131. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 131 of the Complaint and therefore denies them.

132. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 132 of the Complaint and therefore denies them.

133. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 133 of the Complaint and therefore denies them.

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137. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 137 of the Complaint and therefore denies them.

138. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 138 of the Complaint and therefore denies them.

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141. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 141 of the Complaint and therefore denies them.

142. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 142 of the Complaint and therefore denies them.

143. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 143 of the Complaint and therefore denies them.

144. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 144 of the Complaint and therefore denies them.

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149. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 149 of the Complaint and therefore denies them.

150. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 150 of the Complaint and therefore denies them.

151. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 151 of the Complaint and therefore denies them.

152. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 152 of the Complaint and therefore denies them.

153. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 153 of the Complaint and therefore denies them.

154. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 154 of the Complaint and therefore denies them.

155. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 155 of the Complaint and therefore denies them.

156. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 156 of the Complaint and therefore denies them.

157. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 157 of the Complaint and therefore denies them. Denied that GHM committed any act of infringement.

158. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 158 of the Complaint and therefore denies them. Denied that GHM committed any act of infringement.

159. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 159 of the Complaint and therefore denies them. Denied that GHM committed any willful act of infringement.

160. The allegations contained in paragraph 160 of the Complaint are denied.

161. The allegations contained in paragraph 161 of the Complaint are denied.

162. GHM re-alleges its responses above as if fully set forth herein.

163. The allegations contained in paragraph 163 of the Complaint are denied.

164. The allegations contained in paragraph 164 of the Complaint are denied.

165. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 165 of the Complaint and therefore denies them.

166. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 166 of the Complaint and therefore denies them.

167. The allegations contained in paragraph 167 of the Complaint are denied.

168. Admitted that GHM knew that certain Defendants would use the photographs to market certain hotels managed by GHM. The remaining allegations contained in paragraph 168 of the Complaint are denied.

169. The allegations contained in paragraph 169 of the Complaint are denied.

170. Admitted that GHM knew that certain Defendants would use the photographs to market certain hotels managed by GHM. The remaining allegations contained in paragraph 170 of the Complaint are denied.

171. The allegations contained in paragraph 171 of the Complaint are denied.

172. The allegations contained in paragraph 172 of the Complaint are denied.

173. Admitted that Plaintiff seeks such relief. Denied that Plaintiff is entitled to any relief. The remaining allegations contained in paragraph 173 of the Complaint are denied.

174. GHM re-alleges its responses above as if fully set forth herein.

175. The allegations contained in paragraph 175 of the Complaint are denied.

176. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 176 of the Complaint and therefore denies them.

177. The allegations contained in paragraph 177 of the Complaint are denied.

178. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 178 of the Complaint and therefore denies them.

179. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 179 of the Complaint and therefore denies them.

180. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 180 of the Complaint and therefore denies them.

181. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 181 of the Complaint and therefore denies them.

182. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 182 of the Complaint and therefore denies them.

183. GHM is without sufficient knowledge to admit or deny the allegations contained in paragraph 183 of the Complaint and therefore denies them.

184. The allegations contained in paragraph 184 of the Complaint are denied.

185. The allegations contained in paragraph 185 of the Complaint are denied.

186. Admitted that Plaintiff seeks such relief. Denied that Plaintiff is entitled to any relief. The remaining allegations contained in paragraph 186 of the Complaint are denied.

GHM denies that Plaintiff is entitled to the relief requested in the WHEREFORE clause of the Complaint.

AFFIRMATIVE DEFENSES

1. **Improper Service of Process.** Plaintiff failed to properly serve GHM, a foreign entity, with process in accordance with the Federal Rules of Civil Procedure and/or foreign law.

2. **Lack of Personal Jurisdiction.** This Court lacks personal jurisdiction over GHM.

3. **Setoff and Recoupment.** To the extent Plaintiff has any valid claim against GHM, any amount recoverable by Plaintiff should be reduced by any amounts owed by the Plaintiff and/or its affiliates to GHM.

4. **Statute of Limitations.** Plaintiff's claims are barred, in whole or in part, by the applicable statute of limitations.

5. **Laches.** Plaintiff's claims are barred, in whole or in part, by the doctrine of laches.

6. **Unclean Hands.** Plaintiff's claims are barred, in whole or in part, by the doctrine of unclean hands.

7. **Standing.** Plaintiff lacks standing to bring some of the claims set forth in the Complaint.

8. **Contribution/Indemnification.** The alleged injuries were proximately caused by and contributed to by the acts or omissions of other persons and/or entities, including Plaintiff and its affiliates.

9. **Digital Millennium Copyright Act.** Plaintiff's claims are barred in whole or in part by the safe harbor provisions in the Digital Millennium Copyright Act.

10. **License.** Any use of the allegedly infringing photographs by GHM was pursuant to an express or implied license.

11. **Innocent Infringement.** GHM was not aware and had no reason to believe any of the alleged acts constituted copyright infringement. And use of the allegedly infringing images by GHM was done, if at all, with innocent intent, in that GHM believed in good faith that any such conduct did not constitute an infringement of copyright.

12. **Lack of Entitlement to Statutory Damages and Attorneys Fees.** Some or all of the copyrights that Plaintiff alleges have been infringed by GHM were not timely registered thus barring Plaintiff from recovering statutory damages or attorneys' fees.

13. **Improper Joinder of Defendants.** Plaintiff has improperly joined numerous defendants in a single action without commonality as to the transactions or occurrences giving rise to Plaintiff's claims.

14. **Failure to Register Copyright.** Some or all of the images that Plaintiff alleges have been infringed by GHM were not registered prior to commencement of this action.

15. **Waiver and Abandonment.** To the extent Plaintiff ever had any rights under the Copyright Laws, Plaintiff has waived, abandoned or forfeited any rights previously held under the Copyright Laws.

16. **Failure to Join Indispensable Parties.** Plaintiff has failed to join parties indispensable to this action including those parties actually engaged to take the photographs.

17. **Accord and Satisfaction.** Plaintiff's claims are barred due to accord and satisfaction and because the parties settled these claims.

18. **Improper Venue/Forum Non Conveniens.** The venue for these proceedings is improper and/or another venue, such as Singapore, would be better suited for this case

DATED: June 18, 2014

Respectfully submitted,

By: /s/ Daniel F. Benavides

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Attorneys for General Hotel Management Ltd.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on June 18, 2014, a true and correct copy of the foregoing was served upon all counsel of record via the S.D.N.Y.'s Electronic Filing System ("ECF") and served via ECF as well as First-Class mail upon the attorneys for plaintiff The Wave Studio, LLC, at the following address:

Cameron S. Reuber, Esq.
Leason Ellis LLP
One Barker Avenue, Fifth Floor
White Plains, New York 10601

/s/ Thomas H. Curtin
THOMAS H. CURTIN